

REMARKS

The present application was filed on September 22, 1999 with claims 1-11. Claims 1-14 are currently pending. Claims 1, 5, 10 and 12 are independent claims.

In the Decision on Appeal dated June 27, 2007 (hereinafter "the Decision"), the Board: (i) affirmed the Examiner's rejection of claims 1-11 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,414,858 to Hoffman et al. (hereinafter "Hoffman"); and (ii) issued a new ground of rejection under 37 CFR 41.50(b) for claims 12-14 under 35 U.S.C. §103(a) as being unpatentable over Hoffman.

Applicants hereby reopen prosecution of claims 12-14 under 37 CFR 41.50(b)(1).

As set forth therein, MPEP 2143 states that three requirements must be met to establish a prima facie case of obviousness. For example, the cited combination must teach or suggest all the claim limitations. Thus, it is sufficient to show that a prima facie case of obviousness has not been established by showing that this requirement has not been met. Because Hoffman fails to suggest or render obvious at least the elements of independent claim 12, as amended, a prima facie case of obviousness has not been established.

In light of the Board's finding, at page 12, last paragraph of the Decision, with emphasis added, that there is "no legally significant distinction between the speculative scheduling limitation recited in claim 1 and the polling taught by Hoffman," (see also page 12, second paragraph of the Decision ("the claim limitation 'speculatively scheduling a further task for processing' reads on the polling of Hoffman"), the Applicants have amended claim 12 so as to further clarify the distinctions between the conventional polling techniques taught by Hoffman and the inventive techniques described in the present specification at, for example, pages 12-13.

More specifically, Applicants have amended claim 12 so as to recite a limitation of scheduling a speculative task, wherein the speculative task, when executed, is operative to determine whether additional work items for processing have been received between the scheduling of the speculative task and the execution of the speculative task. The conventional polling taught by Hoffman fails to teach or suggest the limitations of claim 12 as amended.

Moreover, claim 12 has been further amended to recite a limitation wherein either an interrupt-based mechanism or a polling-based mechanism is provided responsive to a determination by the speculative task that no additional work items for processing either have or have not been received between the scheduling of the speculative task and the execution of the speculative task. Hoffman fails to teach or suggest these limitations; rather, as described by the Board in Finding of Fact No. 4 on page 6 of the Decision, Hoffman in fact teaches away:

The system of Hoffman transitions between an interrupt mode and a polling mode responsive to the rate of service requests. (Col. 2, 11. 6-14; Col. 3, 11. 30-33; Figures 3 & 4.) In a preferred embodiment, operation commences in the interrupt mode. (Col. 2, 11. 20-23; Col. 3, 11. 34-38.) If the rate of service requests exceeds a threshold, the mode transitions from interrupt to polling. (Col. 2, 11. 25-28; Col. 3, 11. 34-38.) The polling mode continues until the rate decreases below the threshold, reverting the system back to interrupt mode. (Col. 2, 11. 28-31; Col. 3, 11. 43-48). Thus, the system switches between interrupt mode and polling mode depending upon the rates of service requests generated by the peripheral devices. (Col. 3, 11. 48-51.) Hoffman teaches that this technique optimizes the servicing of the peripheral devices. (Col. 2, 11. 31-34.)

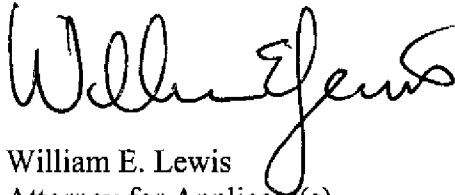
Dependent claims 13 and 14 are patentable at least by virtue of their dependency from independent claim 12, and also recite patentable subject matter in their own right. Accordingly, withdrawal of the rejection to claims 12-14 under 35 U.S.C. §103(a) is therefore respectfully requested.

With regard to claims 1-11, Applicants respectfully note that MPEP 1214.01 indicates that “[p]rosecution before the examiner of the 37 CFR 41.50(b) rejection can incidentally result in overcoming the affirmed rejection even though the affirmed rejection is not open to further prosecution. Therefore, it is possible for the application to be allowed as a result of the limited prosecution before the examiner of the 37 CFR 41.50(b) rejection.”

Moreover, Applicants expressly reserve the right to seek a rehearing and/or judicial review with regard to claims 1-11, pursuant to MPEP 1214.01 (“If the appellant elects to proceed before the examiner with regard to the new rejection, the Board’s affirmance of the examiner’s rejection will be treated as nonfinal for purposes of seeking judicial review, and no request for reconsideration of the affirmance need be filed at that time.”)

In view of the above, Applicants believe that the pending claims are in condition for allowance, and respectfully request withdrawal of the §103(a) rejections and allowance of the application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "William E. Lewis". The signature is fluid and cursive, with the first name "William" being more prominent than the last name "Lewis".

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